

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE: Bair Hugger Forced Air Warming
Products Liability Litigation

MDL No. 15-2666 (JNE/FLN)

This Document Relates to All Actions.
**RACHEL LAGUNA as Spouse of
REYNALDO LAGUNA,
PLAINTIFF(S)**

**MASTER SHORT FORM
COMPLAINT AND JURY TRIAL
DEMAND**

VS.

3M COMPANY

1. Plaintiff, RACHEL LAGUNA as Spouse of REYNALDO LAGUNA (“Plaintiff”), states and brings this civil action in MDL No. 15-2666, entitled *In Re: Bair Hugger Forced Air Warming Products Liability Litigation*. Plaintiff(s) [is/are] filing this Short Form Complaint as permitted by Pretrial Order #8 of this Court.

PARTIES, JURISDICTION AND VENUE

2. Plaintiff, RACHEL LAGUNA as Spouse of REYNALDO LAGUNA, deceased, is a resident and citizen of the State of Arizona and claims damages as set forth below.

3. Plaintiff’s Spouse is a resident and citizen of the State of Arizona, and claims damages as set forth below.

4. Jurisdiction is proper based upon diversity of Citizenship.

5. Proper Venue: The District Court in which remand trial is proper and where this Complaint would have been filed absent the direct filing order by this Court is Minnesota.

6. Plaintiff brings this action

_____ On behalf of [himself/herself];

X In a representative capacity as the Spouse of REYNALDO LAGUNA.

FACTUAL ALLEGATIONS

7. On or about October 15, 2007, Plaintiff underwent surgery during which the Bair Hugger Forced Air Warming system (hereinafter “Bair Hugger”) was used during the course and scope of his surgery at the St. Rose Dominican Hospital.

8. Contaminants introduced into Plaintiff’s open surgical wound as a direct and proximate result of use of the Bair Hugger during the subject surgery resulted in Plaintiff developing a periprosthetic joint infection (“PJI”), also known as a deep joint infection (“DJI”).

9. As a result of Plaintiff’s infection caused by the Bair Hugger, Plaintiff has undergone knee irrigation and debridement on or about January 28, 2011.

ALLEGATIONS AS TO INJURIES

10. (a) Plaintiff claims damages as a result of (check all that are applicable):

X _____ INJURY TO HERSELF/HIMSELF

X _____ INJURY TO THE PERSON REPRESENTED

X _____ WRONGFUL DEATH

X _____ SURVIVORSHIP ACTION

X ECONOMIC LOSS

X LOSS OF CONSORTIUM

11. Defendants, by their actions or inactions, proximately caused the injuries to Plaintiff(s).

DEFENDANT-SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY

12. The following claims and allegations are asserted by Plaintiff(s) and are herein adopted by reference (check all that are applicable):

X FIRST CAUSE OF ACTION - NEGLIGENCE;

X SECOND CAUSE OF ACTION - STRICT LIABILITY;

X FAILURE TO WARN

X DEFECTIVE DESIGN AND MANUFACTURE

X THIRD CAUSE OF ACTION – BREACH OF EXPRESS WARRANTY;

X FOURTH CAUSE OF ACTION- BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY LAW

X FIFTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA PREVENTION OF CONSUMER FRAUD ACT;

X SIXTH CAUSE OF ACTION – VIOLATION OF THE MINNESOTA DECEPTIVE TRADE PRACTICES ACT;

X SEVENTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA UNLAWFUL TRADE PRACTICES ACT;

X EIGHTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA FALSE ADVERTISING ACT;

X NINTH CAUSE OF ACTION- CONSUMER FRAUD AND/OR UNFAIR AND DECEPTIVE TRADE PRACTICES UNDER LAW OF THE STATE OF MINNESOTA 325D.44;

X TENTH CAUSE OF ACTION – NEGLIGENT

MISREPRESENTATION;

X ELEVENTH CAUSE OF ACTION- FRAUDULENT
MISREPRESENTATION;

X TWELFTH CAUSE OF ACTION – FRAUDULENT
CONCEALMENT;

X THIRTEENTH CAUSE OF ACTION – LOSS OF
CONSORTIUM; and

X FOURTEENTH CAUSE OF ACTION – UNJUST
ENRICHMENT.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff(s) pray for judgment against Defendants as follows:

1. For compensatory damages;
2. Pre-judgment and post-judgment interest;
3. Statutory damages and relief of the state whose laws will govern this action;
4. Costs and expenses of this litigation;
5. Reasonable attorneys' fees and costs as provided by law;
6. Equitable relief in the nature of disgorgement;
7. Restitution of remedy Defendants' unjust enrichment; and
8. All other relief as the Court deems necessary, just and proper.

[INTENTIONALLY LEFT BLANK]

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff(s) hereby demand(s) a trial by jury as to all claims in Complaint so triable.

Dated: February ___, 2017

Respectfully submitted,

s/ Travis R. Walker

TRAVIS R. WALKER, ESQ.

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